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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/688,988

10/21/2003

Andrew Sean Gordon Daly

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3985

466 7590 11/21/2008

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EXAMINER

DEMILLE, DANTON D

ART UNIT

PAPER NUMBER

3771

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DELIVERY MODE

11/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/688,988	Applicant(s) DALY, ANDREW SEAN GORDON	
	Examiner Danton DeMille	Art Unit 3771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

Claims 21, 23-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuerch in view of Clegg and Shafer.

Schuerch teaches a tendon and ligament support for a horse's fetlock joint including a cannon bone-embracing collar 47, 48 and a hoof embracing collar 26, 28. The device includes connection means 12, 20, 42 comprising pivot arrangements 22, 44 for providing articulation and separation between the two collars. The hoof embracing collar 26, 28 would appear to include a pastern bone-embracing collar because the collar would extend above the hoof to just below the fetlock joint. Pivot 22 would allow the hoof to pivot relative to the pastern bone and pivot 44 is located at the fetlock joint. Therefore that portion of the collar 26, 28 that is above the pivot 22 would be embracing the pastern bone. To any extent it is felt that the portion of the collar above the pivot 22 does not embrace the pastern bone, Clegg is cited to teach such a convention. It would have been obvious to one of ordinary skill in the art to modify Schuerch to include a pastern bone-embracing collar as taught by Clegg to better support the fetlock support against the relatively moving portions of the leg of the animal.

While Schuerch appears silent with regard to an essentially inelastic connector arranged across the posterior side of the fetlock joint to limit fetlock joint movement such would have been obvious to one of ordinary skill in the art. Braces are provided across joints to limit the amount of range of motion to protect the joint from hyperextension of the joint.

Shafer teaches collars to be attached above and below a joint and connection means comprising a pivot arrangement 32 for providing articulation and separation between the two collars and an essentially inelastic connector 37, 41 to limit joint movement within a

predetermined range of pivot rotation. It would have been obvious to one of ordinary skill in the art to modify Schuerch to include inelastic connector straps as taught by Shafer to limit the range of motion.

Regarding claims 25-27, it would have been obvious to one of ordinary skill in the art to modify the pivot of Schuerch to restrict the pivotal movement of the joint as desired dependent on practical considerations of intended use.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 21 above, and further in view of Detty.

It would have been obvious to one of ordinary skill in the art to further modify Schuerch to provide shock absorbent material as taught by Detty for the purposes of preventing injury to horses' ankle and protecting an angle from further injury which could result from impact to the ankle.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 21 above, and further in view of Bard.

It would have been obvious to one of ordinary skill in the art to further modify Schuerch to provide air intake entrance facing to the front of the support as taught by Bard for the purpose of allowing venting of the support.

Response to Arguments

Applicant's arguments with respect to claims 21-30 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974.

The examiner can normally be reached on M-F from 8:30 to 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu, can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

21 November 2008

/Danton DeMille/

Danton DeMille
Primary Examiner
Art Unit 3771